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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/672,675	09/26/2003	Manoj Ajbani	DN2002-152	9817

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Patent & Trademark Department - D/823
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EXAMINER

JACKSON, MONIQUE R

ART UNIT PAPER NUMBER

1773

DATE MAILED: 05/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/672,675

Applicant(s)

AJBANI ET AL.

Examiner

Monique R. Jackson

Art Unit

1773

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 February 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16, 19-27, 29-31, 33, 35 and 43-53 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16, 19-27, 29-31, 33, 35 and 43-53 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. The amendment filed 2/16/06 has been entered. Claims 17, 18, 28, 32, 34 and 36-42 have been canceled. New claims 43-53 been added. Claims 1-16, 19-27, 29-31, 33, 35, are 43-53 are pending in the application.

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 1-16, 19-27, 29-31, 33, 35, and 43-53 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Amended Claim 1 and new Claim 47 recite the limitation "wherein the rubbery elastomer is optionally at least partially crosslinked...wherein the soft thermoplastic composition is cured with sulfur or a phenolic curative by dynamic vulcanization" however it is noted that the instant disclosure at the time of the invention refers to sulfur or phenolic curing in terms of the rubbery solution polymer elastomer and not the thermoplastic composition as a whole. Further, it is noted that if dynamic vulcanization by a sulfur or phenolic curative is performed then the rubbery elastomer would in fact be at least partially crosslinked and therefore it would not be optional.

Art Unit: 1773

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-16, 19-27, 29-31, 33, 35, and 43-53 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Amended Claim 1 and new Claim 47 recite the limitation “wherein the rubbery elastomer is optionally at least partially crosslinked...wherein the soft thermoplastic composition is cured with sulfur or a phenolic curative by dynamic vulcanization” however considering the instant disclosure describes the dynamic vulcanization by sulfur or phenolic curative with respect to crosslinking the rubbery elastomer, it is unclear how at least partial crosslinking of the rubber elastomer can be optional if the vulcanization is required.

Claim Rejections - 35 USC § 103

7. Claims 1-16, 19-27, 29-31, 33, 35, and 43-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sukaki (USPN 6,723,776) in view of the admitted prior art. Sukaki et al teach a low-modulus polymer composition and sealant material made from the composition wherein the composition comprises (A) 25-75 weight parts of at least one thermoplastic elastomer selected from the group consisting of a hydrogenated styrene-isoprene-styrene block copolymer, a hydrogenated styrene-butadiene-styrene block copolymer and a styrene-ethylene-ethylene-propylene-styrene block copolymer; (B) 25-75 weight parts of a rubber component containing at least 50% ethylene-propylene-diene rubber and may include other rubbers such as SBR, based on 100 weight parts of (A) and (B); (C) 200 weight parts of a softener such as paraffin oil based on 100 weight parts of (A) and (B) or (A), (a) and (B); and further comprising

(a) an olefin polymer such as polyethylene or polypropylene and, if necessary, (D) carbon black, wherein at least portion of the rubber component (B) is crosslinked by dynamic crosslinking utilizing a conventionally known vulcanizing agent such as a sulfur or phenolic curative (Abstract; Col. 3; Col. 6, lines 66-67; Col. 7; Col. 8, lines 30-67; Col. 9, lines 1 and 52-67.) Sukaki et al further teach that the low-modulus composition can be molded by injection molding (Col. 4, lines 24-36) and is well suited for sealing a gap between a cable and a closure body or a space between a closure body and a wire wherein the shape of the sealant is appropriately selected (Col. 4, lines 49-55; Col. 11, lines 35-37; *wherein one skilled in the art could interpret the sealant as being overmolded onto the harder closure body or cable.*) Hence Sukaki et al specifically teach that the elastomer composition comprises the instantly claimed components in ranges that read upon the instant invention wherein one having ordinary skill in the art at the time of the invention would have been motivated to select from any of the materials taught by Sukaki et al in the amounts disclosed by Sukaki et al, utilizing routine experimentation to determine the desired amounts for a particular end use wherein the amounts utilized would determine which component(s) are dispersed within a matrix of the other component(s). Sukaki et al further teach that the thermoplastic elastomer composition can comprise processing aids and reinforcing including the instantly claimed reinforcing fillers and may be formed into molded articles by injection or press molding however Sukaki et al do not specifically teach overmolding the composition onto a “hard” substrate as instantly claimed (Col. 10, lines 19-27.) However, it is well established in the art that an elastomer molding composition may be provided with a reinforcing insert such as a metal plate or harder polymer base, such as the “hard” substrates instantly claimed, to provide support to the elastomer composition which is overmolded onto the

Art Unit: 1773

insert, as taught by the admitted prior art (Pages 1-2 and 10), and would have been obvious to one having ordinary skill in the art at the time of the invention. Further, it would have been obvious to one having ordinary skill in the art at the time of the invention to utilize any conventional polyolefin or polypropylene such as those instantly claimed and further to determine the suitable styrene butadiene elastomer including styrene content to provide the desired elastomer properties for a particular end use.

Response to Arguments

8. Applicant's arguments with respect to claims 1-16, 19-27, 29-31, 33, 35, and 43-53 have been considered but are moot in view of the new ground(s) of rejection.

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Art Unit: 1773

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Monique R. Jackson whose telephone number is 571-272-1508.

The examiner can normally be reached on Mondays-Thursdays, 8:00AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carol Chaney can be reached on 571-272-1284. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Monique R. Jackson
Primary Examiner
Technology Center 1700
April 24, 2006